

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
GROUP ART UNIT 3724

#18/ Appeal Brief #3724  
2/25/04 G/Hab

In re

Patent Application of

Thomas Richard Bednar, et al.

Application No. 09/892,096


Confirmation No. 2860

Filed: June 26, 2001

Examiner: Omar Flores Sanchez

"RECIPROCATING SAW"

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**SUPPLEMENTAL APPEAL BRIEF AND  
REQUEST TO REINSTATE APPEAL**

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Sir:

Applicants previously appealed from the decision dated September 11, 2002 of the Examiner finally rejecting Claims 2-3, 5-12 and 23-30 and objecting to Claims 13-14. On May 27, 2003, the Examiner issued a non-final Office action with new grounds of rejection and reopened prosecution. Applicants filed a response to the Examiner's rejections on August 27, 2003. On November 14, 2003, the Examiner issued an Office action allowing Claims 8-9, 25-26 and 28-30 and finally rejecting Claims 2-3, 5-7, 10-14, 23-24 and 27. With the present Supplemental Appeal Brief, Applicants respectfully request reinstatement of the appeal under 37 C.F.R. §1.193(b)(2). This Supplemental Appeal Brief is submitted in triplicate in support of the present appeal and in support of Applicants' request to reinstate the appeal.

Applicants' attorney timely filed a Notice of Appeal on December 11, 2003. A check for \$320 in payment of the fee for a Notice of Appeal was submitted with the Notice of Appeal. On

February 11, 2003, Applicants' attorney filed an Appeal Brief (the "earlier-filed Appeal Brief"). A check for \$320.00 in payment of the fee for an Appeal Brief was submitted with the earlier-filed Appeal Brief. Accordingly, no fee is required for the present Supplemental Appeal Brief. However, please charge any additional fees or credit any overpayment to Deposit Account No. 13-3080.

#### **REAL PARTY IN INTEREST**

The real party in interest is Milwaukee Electric Tool Corporation, 13135 West Lisbon Road, Brookfield, Wisconsin 53005.

#### **RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

#### **STATUS OF CLAIMS**

Claims 2-3, 5-14 and 23-30 are pending. Claims 8-9, 25-26 and 28-30 are allowed. Claims 2-3, 5-7, 10-14, 23-24 and 27 stand at least twice rejected and appealed. Claims 1, 4, 15-22 and 31 were previously cancelled without prejudice.

#### **STATUS OF AMENDMENTS**

On December 11, 2002, Applicants submitted, with a first Notice of Appeal, an Amendment placing Claims 13-14, which the Examiner had previously indicated include allowable subject matter, in allowable form to place the application in a better condition for consideration on appeal. In an Advisory Action dated February 12, 2003, the Examiner entered the Amendment and allowed Claims 13-14. No amendments were filed with the earlier-filed Appeal Brief.

In the Office action dated May 27, 2003, the Examiner added new grounds of rejections of Claims 2-3, 5-7, 10-14, 23-24 and 27 and allowed Claims 28-30. On August 27, 2003, Applicants submitted an Amendment including amendments to Claims 8 and 25. In the Office action dated November 14, 2003, the Examiner maintained the earlier rejections of Claims 2-3, 5-14 and 23-30 and allowed Claims 8-9 and 25-26, in addition to the previous allowance of

Claims 38-30. No new amendments have been filed after the Office action dated November 14, 2003.

### **SUMMARY OF THE INVENTION**

The Summary of the Invention submitted on February 11, 2003 with the earlier-filed Appeal Brief is incorporated herein.

### **STATEMENT OF THE ISSUES**

Whether Claims 2-3, 5-7, 10-14, 23-24 and 27 are unpatentable under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,007,172 ("Palm") in view of U.S. Patent No. 5,987,758 ("McCurry").

### **GROUPING OF THE CLAIMS**

The rejected claims do not stand or fall together, and the following groups are separately patentable:

Group I:	Claims 2-3 and 5-7;
Group II:	Claims 10-12;
Group III:	Claim 13;
Group IV:	Claim 14;
Group V:	Claims 23-24; and
Group VI:	Claim 27.

### **THE REFERENCES**

#### **U.S. Patent No. 5,007,172 ("Palm")**

The summary of U.S. Patent No. 5,007,172 ("Palm") submitted on February 11, 2003 with the earlier-filed Appeal Brief is incorporated herein.

#### **U.S. Patent No. 5,987,758 ("McCurry")**

McCurry discloses a jigsaw 10 having a blade clamp 12. A drive shaft 20 includes a first end 22 connected to a drive mechanism and a second end 24 which supports the blade clamp 12. The blade clamp 12 accepts an elongated blade 26 and holds the elongated blade 26 below a

surface plate 28 attached to the motor housing 14 for reciprocating movement along a longitudinal shaft axis 30.

In the jigsaw of McCurry, pivot joints 46 extend outwardly from opposite sides of a blade clamp housing 34 and support a lever 44 having a handle 48. A pair of elongated links 50, each having a first end 52 provided with a link pin 54, are connected to the lever 44 via a pair of arcuate slots 56 located on either side of the lever 44 into which the link pins 54 are slidably engageable. A second end 58 of each link 50 is provided with a link attachment knob 60. A pair of coiled springs 62 each have a first end 64 adapted for attachment to the link attachment knobs 60 and a second end 66 adapted for attachment to a pair of lever attachment knobs 68 provided on the lever 44 spaced from the pivot joints 46. A cylindrical roller 70 is pivotably connected between the links 50 by a roller pin 72 inserted through roller 70 and accepted into a recess 74 provided on each link 50. The roller 70 has a roller axis 76 perpendicular to the axis of the blade 26 and is movable along a track 80 formed in the blade clamp housing 34. Together, the lever 44, the links 50 and roller 70 hold the blade 26 in a channel 82 during cutting operations.

McCurry does not teach or suggest, among other things, a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand and that the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. Rather, McCurry discloses a jigsaw 10 including a motor housing 14 and a handle extending upwardly and outwardly from the motor housing 14. During operation, an operator grasps the handle with a first hand and, for two-handed operation, presumably grasps another portion of the motor housing 14 with a second hand. Also, in McCurry, the lever 44 is adjacent to the saw blade 26, reciprocates with the drive shaft 20 and the saw blade 26 and cannot be safely held by an operator during operation of the jigsaw 10.

McCurry also does not teach or suggest a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. In addition, McCurry does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing.

Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the blade 26 during cutting operations.

Further, McCurry does not teach or suggest a retainer member supported by the housing and defining a channel, and that the shoe support member is movable in the channel. Also, McCurry does not teach or suggest the housing defining a slot, the retainer member being supported in the slot. In addition, McCurry does not teach or suggest a retainer member defining a first opening and a second opening respectively receiving the first end and the second end of the locking member. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14. In McCurry, there is no retainer member supported by the housing which receives the ends of a locking member.

### **PROSECUTION SUMMARY**

In the first Office action, dated March 13, 2002, the Examiner rejected Claims 1-31. In response, Applicants presented arguments traversing the Examiner's rejections, cancelled Claims 1, 4, 15-22 and 31 without prejudice and amended Claims 7 and 10 into independent form to place Claims 2-3, 5-14 and 23-30 in allowable form.

In the second Office action, dated September 11, 2002, the Examiner maintained the rejections of claims 2-3, 5-12 and 23-30 and indicated that Claims 13-14 included allowable subject matter. In response, Applicants timely-filed a first Notice of Appeal and filed therewith an Amendment placing claims 13-14 in allowable independent form. Applicants also filed an Appeal Brief (the "earlier-filed Appeal Brief"). In an Advisory Action, dated February 12, 2003, the Examiner allowed Claims 13-14.

In the third Office action, dated May 27, 2003, the Examiner submitted new grounds of rejection for Claims 2-3, 5-7, 10-12, 23-24 and 27, rejected previously-allowable Claims 13-14, allowed Claims 28-30 and indicated that Claims 8-9 and 25-26 include allowable subject matter. In response, Applicants presented arguments traversing the Examiner's rejections and amended Claims 8 and 25 into independent form to place Claims 2-3, 5-14 and 23-30 in allowable form.

In the fourth Office action, dated November 14, 2003, the Examiner maintained the previous rejections of Claims 2-3, 5-7, 10-14, 23-24 and 27 and allowed Claims 8-9, 25-26 and 28-30. In response, Applicants have submitted the present Appeal Brief with a request to reinstate the appeal.

### **THE PRESENT OFFICE ACTION AND THE EXAMINER'S REJECTIONS**

The Examiner rejected Claims 2-3, 5-7, 10-14, 23-24 and 27 under 35 U.S.C. §103(a) as being unpatentable over Palm in view of McCurry. The Examiner states that "Palm discloses the invention including a lever 52, a locking member 48, a first end 54, a second end, a plurality of teeth (Fig. 5), a retainer member 22 supported by the housing and defining a channel 28 and a slot (Fig. 1)." The Examiner conceded that "Palm does not show the lever engages the first and second ends of the locking member, first and second openings (Fig. 4)" and stated that "McCurry teaches the use of a lever engaging the first and second ends of the locking member (Fig. 3) for the purpose of providing a quick release of the blade" and that "[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Palm's device by providing the lever as taught by McCurry in order to obtain a quick release of the locking member." See Office action, dated November 14, 2003, section 3.

### **ARGUMENT**

In the earlier-filed Appeal Brief, Applicants' attorney addressed the rejections and objections made in the second Office action dated September 11, 2002. The arguments submitted on February 11, 2003 with the earlier-filed Appeal Brief are therefore incorporated herein.

Also, in the Office action dated May 27, 2003, the Examiner entered new grounds of rejection. Applicants have addressed herein the new grounds of rejection that are substantively different from the earlier rejections entered in the second Office action dated September 11, 2002.

#### **Group I**

The claims of Group I, Claims 2-3 and 5-7, are patentable separately from the claims of the other groups, as described below in more detail.

Independent Claim 7 defines a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand, a motor supported by the housing, a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade, a drive mechanism connected between the motor

and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor, a shoe for engaging a surface of a workpiece, a shoe support member supporting the shoe, the shoe support member being movably supported by the housing, a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. The lever is supported on the first grip surface such that, during operation of the saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. The locking assembly includes a locking member engageable with the shoe support member. The lever is operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked position, in which the shoe support member is movable relative to the housing. The locking member has a first end and a second end, and the lever engages the first end and the second end of the locking member.

As acknowledged by the Examiner, Palm does not teach or suggest, among other things, a reciprocating saw comprising a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member having a first end and a second end, the reciprocating saw further comprising a lever engaging the first end and the second end of the locking member. Rather, in Palm, the lever 52 engages only the outer end 54 of the pin 48. As shown in Fig. 4 of Palm, the lever 52 does not engage the opposite end of the pin 48. There is no teaching or suggestion in Palm that the lever 52 should or could engage the opposite end of the pin 48. For these and other reasons, Palm does not teach or suggest the subject matter defined by independent Claim 7.

McCurry does not cure the deficiencies of Palm. McCurry does not teach or suggest, among other things, a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand and that the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. Rather, McCurry discloses a jigsaw 10 including a motor housing 14 and a handle extending upwardly and outwardly from the motor housing 14. During operation, an operator grasps the handle with

a first hand and, for two-handed operation, presumably grasps another portion of the motor housing 14 with a second hand. Also, in McCurry, the lever 44 is adjacent to the saw blade 26, reciprocates with the drive shaft 20 and the saw blade 26 and cannot be safely held by an operator during operation of the jigsaw 10.

McCurry also does not teach or suggest a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. McCurry also does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the blade 26 during cutting operations. For these and other reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 7.

Applicants realize that the Examiner is relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end, and a lever engaging the first end and the second end of the locking member. However, Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, in establishing a *prima facie* case of obviousness, the Examiner must provide a reason why one of ordinary skill in the art would have been led to modify a prior art reference or to combine reference teachings to arrive at the claimed invention. To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from Applicants' disclosure. In addition, the mere fact that the prior art structure could be modified does not make such a modification obvious unless the prior art suggests the desirability of doing so.

The Examiner contends that it would have been obvious to modify the reciprocating saw disclosed by Palm to include the lever disclosed by McCurry "in order to obtain a quick release

of the locking member.” See Office action, dated May 27, 2003, paragraph 2. However, Palm already discloses a quick change or “quick release” guide shoe. As shown in Fig. 4 of Palm, the lever 52 does not engage the opposite end of the pin 48, and there is no teaching or suggestion that Palm’s quick change guide shoe should or could be modified so that the lever 52 engages the opposite end of the pin 48. For these and other reasons, Applicants respectfully submit that the Examiner has not identified any teaching or suggestion that these references should be combined and that, in fact, there is no teaching or suggestion that these references should be combined.

In summary, Palm and McCurry, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 7. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 7 based upon the prior art as required by 35 U.S.C. §103.

For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 7. Accordingly, independent Claim 7 is allowable. Dependent Claims 2-3 and 5-6 depend from independent Claim 7 and are allowable for the same and other reasons. In addition, the additional subject matter defined by the dependent claims provides separate bases for allowance.

## **Group II**

The claims of Group II, Claims 10-12, are patentable separately from the other claims because these claims do not include all the limitations of the other claims and because these claims specify a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel. More specifically, even if the other claims are found to be anticipated by or obvious in view of the cited references, Claims 10-12 are still patentable because there is no teaching, suggestion or incentive to provide the claimed reciprocating saw, as described below in more detail.

Independent Claim 10 defines a reciprocating saw comprising a housing including a first grip surface for an operator’s first hand and a second grip surface for an operator’s second hand, a motor supported by the housing, a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade, a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the

motor, a shoe for engaging a surface of a workpiece, a shoe support member supporting the shoe, the shoe support member being movably supported by the housing, a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. The lever is supported on the first grip surface such that, during operation of the saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. The reciprocating saw is defined as further comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel.

Palm does not teach or suggest, among other things, a reciprocating saw comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel. Rather, Palm discloses that the gear case 22 is provided with a hole 28 which receives the post 30 of the shoe 32. Palm does not teach or suggest any structure corresponding to a retainer member supported by the housing. For these and other reasons, Palm does not teach or suggest the subject matter defined by independent Claim 10.

McCurry does not cure the deficiencies of Palm. McCurry does not teach or suggest, among other things, a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand and that the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. Rather, McCurry discloses a jigsaw 10 including a motor housing 14 and a handle extending upwardly and outwardly from the motor housing 14. During operation an operator grasps the handle with a first hand and, for two handed-operation, presumably grasps another portion of the motor housing 14 with a second hand. Also, in McCurry, the lever 44 is adjacent to the saw blade 26 and cannot be safely held by an operator during operation of the jigsaw 10.

McCurry also does not teach or suggest a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. Also, McCurry does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which

the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the saw blade 26 during cutting operations.

In addition, McCurry does not teach or suggest a retainer member supported by the housing and defining a channel, and that the shoe support member is movable in the channel. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14. For these and other reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 10.

The Examiner appears to be relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end, and a lever engaging the first end and the second end of the locking member and not for any teaching or suggestion relating to a retainer member. Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, there is no suggestion that the teachings of the references should or could be combined. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicants refer to the discussion above for Claim 7. With respect to Claim 10, the same arguments apply to the lack of a suggestion that the teachings of the references should or could be combined.

In summary, Palm and McCurry, alone or in combination do not teach or suggest all of the claim limitations of independent Claim 10. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 10 based upon the prior art as required by 35 U.S.C. §103.

For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 10. Accordingly, independent Claim 10 is allowable. Dependent Claims 11-12 depend from independent Claim 10 and are allowable for the same and other reasons. In addition, the additional subject matter defined by the dependent claims provides separate bases for allowance.

### **Group III**

The claim of Group III, Claim 13, is patentable separately from the claims of the other groups patentable separately from the other claims because this claim does not include all the limitations of the other claims and because this claim specifies a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel, the housing defining a slot, and the retainer member being supported in the slot. More specifically, even if the other claims are found to be anticipated by or obvious in view of the cited references, Claim 13 is still patentable because there is no teaching, suggestion or incentive to provide the claimed reciprocating saw, as described below in more detail.

Independent Claim 13 defines a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand, a motor supported by the housing, a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade, a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor, a shoe for engaging a surface of a workpiece, a shoe support member supporting the shoe, the shoe support member being movably supported by the housing, a locking assembly operable to lock the shoe support member in a position relative to the housing, a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of the saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly, and a retainer member supported by the housing and defining a channel. Claim 13 specifies that the shoe support member is movable in the channel, and that the housing defines a slot, the retainer member being supported in the slot.

In the second Office action, dated September 11, 2002, the Examiner indicated that Claim 13 included allowable subject matter and would be allowable if amended into independent form. The Examiner has now rejected independent Claim 13 as being obvious over Palm in view of McCurry.

Palm does not teach or suggest, among other things, a reciprocating saw comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel. Also, Palm does not teach or suggest the housing defining a slot, the retainer member being supported in the slot. Rather, Palm discloses that the gear case 22 is provided with a hole 28 which receives the post 30 of the shoe 32. Palm does not teach or suggest any structure corresponding to a retainer member supported by the housing. Further, in Palm, there is no teaching or suggestion that the reciprocating saw should or could include such a retainer member. For these and other reasons, Palm does not teach or suggest the subject matter defined by independent Claim 13.

McCurry does not cure the deficiencies of Palm. McCurry does not teach or suggest, among other things, a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand and that the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. Rather, McCurry discloses a jigsaw 10 including a motor housing 14 and a handle extending upwardly and outwardly from the motor housing 14. During operation, an operator grasps the handle with a first hand and, for two handed-operation, presumably grasps another portion of the motor housing 14 with a second hand. Also, in McCurry, the lever 44 is adjacent to the saw blade 26 and cannot be safely held by an operator during operation of the jigsaw 10.

McCurry also does not teach or suggest a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. McCurry also does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the blade 26 during cutting operations.

In addition, McCurry does not teach or suggest a retainer member supported by the housing and defining a channel, and that the shoe support member is movable in the channel. Also, McCurry does not teach or suggest the housing defining a slot, the retainer member being supported in the slot. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly

coupled to a lower portion of the motor housing 14. For these and other reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 13.

Again, the Examiner appears to be relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end, and a lever engaging the first end and the second end of the locking member and not for any teaching or suggestion relating to a retainer member. Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, there is no suggestion that the teachings of the references should or could be combined. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicants refer to the discussion above for Claim 7. With respect to Claim 13, the same arguments apply to the lack of a suggestion that the teachings of the references should or could be combined.

In summary, Palm and McCurry, alone or in combination do not teach or suggest all of the claim limitations of independent Claim 13. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 13 based upon the prior art as required by 35 U.S.C. §103.

For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 13. Accordingly, independent Claim 13 is allowable.

#### **Group IV**

The claim of Group IV, Claim 14, is patentable separately from the claims of the other groups because this claim does not include all the limitations of the other claims and because this claim specifies a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel, that the locking assembly includes a locking member engageable with the shoe support member to lock the shoe support member in a position relative to the housing, the locking member including a first end and a second end and that the retainer member defines a first opening and a second opening respectively receiving the first end

and the second end of the locking member. More specifically, even if the other claims are found to be anticipated by or obvious in view of the cited references, Claim 14 is still patentable because there is no teaching, suggestion or incentive to provide the claimed reciprocating saw, as described below in more detail.

Independent Claim 14 defines a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand, a motor supported by the housing, a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade, a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor, a shoe for engaging a surface of a workpiece, a shoe support member supporting the shoe, the shoe support member being movably supported by the housing, a locking assembly operable to lock the shoe support member in a position relative to the housing, a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of the saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly, and a retainer member supported by the housing and defining a channel. Claim 14 specifies that the shoe support member is movable in the channel. Claim 14 further specifies that the locking assembly includes a locking member engageable with the shoe support member to lock the shoe support member in a position relative to the housing, the locking member including a first end and a second end and that the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member.

In the second Office action, dated September 11, 2002, the Examiner indicated that Claim 14 also included allowable subject matter and would be allowable if amended into independent form. The Examiner has also now rejected independent Claim 14 as being obvious over Palm in view of McCurry.

Palm does not teach or suggest, among other things, a reciprocating saw comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel. Palm does not teach or suggest any structure corresponding to a

retainer member or such a retainer member receiving the first end and the second end of the locking member. Rather, in Palm, the pin 48 extends through a hole in the gear case 22, and the ends of the pins 48 are not received in a retainer member.

Also, as acknowledged by the Examiner, Palm does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member having a first end and a second end, the retainer member defining a first opening and a second opening respectively receiving the first end and the second end of the locking member. There is no teaching or suggestion in Palm that the reciprocating saw should or could include such a retainer member. Also, in Palm, the pin 48 extends through a hole in the gear case 22, and, as acknowledged by the Examiner, the ends of the pin 48 are not received in such a retainer member. For these and other reasons, Palm does not teach or suggest the subject matter of independent Claim 14.

McCurry does not cure the deficiencies of Palm. McCurry does not teach or suggest, among other things, a reciprocating saw comprising a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand and that the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly. Rather, McCurry discloses a jigsaw 10 including a motor housing 14 and a handle extending upwardly and outwardly from the motor housing 14. During operation, an operator grasps the handle with a first hand and, for two handed-operation, presumably grasps another portion of the motor housing 14 with a second hand. Also, in McCurry, the lever 44 is adjacent to the saw blade 26, reciprocates with the drive shaft 20 and the saw blade 26 and cannot be safely held by an operator during operation of the jigsaw 10.

McCurry also does not teach or suggest a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. McCurry also does not teach or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the blade 26 during cutting operations.

In addition, McCurry does not teach or suggest a retainer member supported by the housing and defining a channel, and that the shoe support member is movable in the channel. Further, McCurry does not teach or suggest such a retainer member defining a first opening and a second opening respectively receiving the first end and the second end of the locking member. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14. In McCurry, there is no retainer member supported by the housing which receives the ends of a locking member. For these and other reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 14.

Again, the Examiner appears to be relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end and a lever engaging the first end and the second end of the locking member and not for any teaching or suggestion relating to a retainer member. However, Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, there is no suggestion that the teachings of the references should or could be combined. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicants refer to the discussion above for Claim 7. With respect to Claim 14, the same arguments apply to the lack of a suggestion that the teachings of the references should or could be combined.

In summary, Palm and McCurry, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 14. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 14 based upon the prior art as required by 35 U.S.C. §103.

For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 14. Accordingly, independent Claim 14 is allowable.

## **Group V**

The claims of Group V, Claims 23-24, are patentable separately from the other claims because these claims do not include all the limitations of the other claims and because these claims specify a locking member including a first end and a second end, and a lever engaging the first end and the second end of the locking member. More specifically, even if the other claims are found to be anticipated by or obvious in view of the cited references, Claims 23-24 are still patentable because there is no teaching, suggestion or incentive to provide the claimed reciprocating saw, as described below in more detail.

Independent Claim 23 defines a reciprocating saw comprising a housing, a motor supported by the housing, a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade, a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor, a shoe for engaging a surface of a workpiece, a shoe support member supporting the shoe, the shoe support member being movably supported by the housing, a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member engageable with the shoe support member, the locking member having a first end and a second end, and a lever operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Claim 23 specifies that the lever engages the first end and the second end of the locking member.

As acknowledged by the Examiner, Palm does not teach or suggest, among other things, a reciprocating saw comprising a locking member including a first end and a second end, and a lever engaging the first end and the second end of the locking member. Rather, in Palm, the lever 52 engages only the outer end 54 of the pin 48. As shown in Fig. 4 of Palm, the lever 52 does not engage the opposite end of the pin 48. There is no teaching or suggestion in Palm that the lever 52 should or could engage the opposite end of the pin 48. For these and other reasons, Palm does not teach or suggest the subject matter defined by independent Claim 23.

McCurry does not cure the deficiencies of Palm. McCurry does not teach or suggest, among other things, a reciprocating saw comprising a shoe support member supporting the shoe, the shoe support member being movably supported by the housing. McCurry also does not teach

or suggest a locking assembly operable to lock the shoe support member in a position relative to the housing, and a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14 and a blade clamp 12 for holding the blade 26 during cutting operations. For these reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 23.

Again, Applicants realize that the Examiner is relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end, and a lever engaging the first end and the second end of the locking member. However, Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, there is no suggestion that the teachings of the references should or could be combined. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicants refer to the discussion above for Claim 7. With respect to Claim 23, the same arguments apply to the lack of a suggestion that the teachings of the references should or could be combined.

In summary, Palm and McCurry, alone or in combination, do not teach or suggest all of the claim limitations of independent Claim 23. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 23 based upon the prior art as required by 35 U.S.C. §103.

For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 23. Accordingly, independent Claim 23 is allowable. Dependent Claims 24 and 27 depend from Claim 23 and are allowable for the same and other reasons. In addition, the additional subject matter defined by the dependent claims provides separate bases for allowance.

## **Group VI**

The claim of Group VI, Claim 27, is patentable separately from the other claims because Claim 27 does not include all the limitations of the other claims and because Claim 27 specifies that the reciprocating saw includes a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel, and that the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member. More specifically, even if the other claims are found to be anticipated by or obvious in view of the cited references, Claim 27 is still patentable because there is no teaching, suggestion or incentive to provide the claimed reciprocating saw, as described below in more detail.

Claim 27 depends from Claim 23 and specifies that the reciprocating saw further includes a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel and that the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member.

The arguments presented above regarding the failure of Palm and McCurry to teach or suggest the limitations of Claim 23 apply with equal weight to Claim 27. Rather than re-present the arguments set forth above, Applicants refer to the discussion above for Claim 27.

In addition to the arguments set forth above, Palm does not teach or suggest any structure corresponding to a retainer member. Rather, Palm discloses that the gear case 22 is provided with a hole 28 which receives the post 30 of the shoe 32. There is no teaching or suggestion in Palm that the reciprocating saw should or could include such a retainer member. Also, in Palm, the pin 48 extends through a hole in the gear case 22, and, as acknowledged by the Examiner, the ends of the pin 48 are not received in such a retainer member. For these and other reasons, Palm does not teach or suggest the subject matter defined by Claim 27.

In addition to the arguments set forth above, McCurry does not teach or suggest a retainer member supported by the housing and defining a channel, and that the shoe support member is movable in the channel. Further, McCurry does not teach or suggest such a retainer member defining a first opening and a second opening respectively receiving the first end and the second end of the locking member. Rather, McCurry discloses a jigsaw 10 with a surface plate 28 fixedly coupled to a lower portion of the motor housing 14. In McCurry, there is no retainer member supported by the housing which receives the ends of a locking member. For these and

other reasons, McCurry does not teach or suggest the subject matter defined by independent Claim 27.

Again, the Examiner appears to be relying on McCurry only for the teaching of a locking assembly including a locking member having a first end and a second end and a lever engaging the first end and the second end of the locking member and not for any teaching or suggestion relating to a retainer member. However, Applicants respectfully contend that the lack of the above-described elements in the teachings of McCurry is relevant because McCurry does not teach or suggest many of the same things lacking from Palm, and, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Further, there is no suggestion that the teachings of the references should or could be combined. Rather than re-present the arguments set forth above with respect to this contention, for brevity's sake, Applicants refer to the discussion above for Claim 7. With respect to Claim 27, the same arguments apply to the lack of a suggestion that the teachings of the references should or could be combined.

In summary, Palm and McCurry, alone or in combination, do not teach or suggest all of the claim limitations of Claim 27. Further, there is no teaching or suggestion that the references should or could be combined. Therefore, Applicants respectfully submit that the Examiner has failed to present a *prima facie* case of obviousness of Claim 27 based upon the prior art as required by 35 U.S.C. §103.

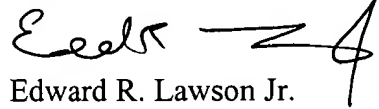
For these reasons, Palm and McCurry, alone or in combination, do not teach or suggest the subject matter defined by Claim 27. Accordingly, Claim 27 is allowable.

### **CONCLUSION**

In view of the foregoing, reinstatement of the appeal and reversal of the rejection of Claims 2-3, 5-7, 10-14, 23-24 and 27, in addition to the previous allowance of Claims 8-9, 25-26 and 28-30, are respectfully requested.

During normal business hours, the undersigned is available at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Lawson Jr.', followed by a long horizontal line and a stylized flourish.

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## **APPENDIX**

2. The reciprocating saw as set forth in Claim 7 wherein the housing has an upper portion, a lower portion, and opposed side portions, and wherein the lever is operable from the lower portion of the housing.

3. The reciprocating saw as set forth in Claim 7 wherein the first grip surface is selectively engageable by one of the operator's first hand and the operator's second hand, and wherein the lever is operable by the one of the operator's first hand and the operator's second hand engaging the first grip surface.

5. The reciprocating saw as set forth in Claim 7 wherein the shoe support member defines therealong a plurality of teeth, wherein, in the locked position, the locking member engages the teeth so that the shoe support member is locked in a position relative to the housing, and wherein, in the unlocked position, the locking member does not engage the teeth and the shoe support member is movable relative to the housing.

6. The reciprocating saw as set forth in Claim 7 wherein the locking member is pivotable between the locked position and the unlocked position.

7. A reciprocating saw comprising:

- a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing; and
- a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of said saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly;

wherein the locking assembly includes a locking member engageable with the shoe support member, and wherein the lever is operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked position, in which the shoe support member is movable relative to the housing;

wherein the locking member has a first end and a second end, and wherein the lever engages the first end and the second end of the locking member.

8. (Allowed) A reciprocating saw comprising:

- a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing; and
- a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of said saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly;

wherein the locking assembly includes a locking member engageable with the shoe support member, and wherein the lever is operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked position, in which the shoe support member is movable relative to the housing;

wherein the locking member has a first end and a second end, and wherein the lever engages the first end and the second end of the locking member;

wherein the lever includes a first lever member formed of a moldable material and a second lever member formed of a metallic material, the second lever member being molded with the first lever member, the second lever member defining a recess, one of the first end and the second end of the locking member engaging the recess.

9. (Allowed) The reciprocating saw as set forth in Claim 8 wherein the second lever member defines a first recess and a second recess, the first end and the second end of the locking member respectively engaging the first recess and the second recess.

10. A reciprocating saw comprising:

- a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing;
- a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of said saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly; and
- a retainer member supported by the housing and defining a channel, and wherein the shoe support member is movable in the channel.

11. The reciprocating saw as set forth in Claim 10 wherein the shoe support member has a bottom wall and at least one side wall extending from the bottom wall, and wherein the retainer member supports the shoe support member along the bottom wall and along the side wall.

12. The reciprocating saw as set forth in Claim 11 wherein the shoe support member has an upper surface, and wherein a portion of the retainer member engages the upper surface.

13.

A reciprocating saw comprising:

a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand;

a motor supported by the housing;

a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;

a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;

a shoe for engaging a surface of a workpiece;

a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;

a locking assembly operable to lock the shoe support member in a position relative to the housing;

a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of said saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly; and

a retainer member supported by the housing and defining a channel, wherein the shoe support member is movable in the channel; and

wherein the housing defines a slot, the retainer member being supported in the slot.

14. A reciprocating saw comprising:

- a housing including a first grip surface for an operator's first hand and a second grip surface for an operator's second hand;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing;
- a lever for operating the locking assembly between a locked condition, in which the shoe support member is locked in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever being supported on the first grip surface such that, during operation of said saw, the operator's first hand engages the first grip surface and the lever and thereby maintains the lever in a locked position corresponding to the locked condition of the locking assembly; and
- a retainer member supported by the housing and defining a channel, and wherein the shoe support member is movable in the channel;

wherein the locking assembly includes a locking member engageable with the shoe support member to lock the shoe support member in a position relative to the housing, the locking member including a first end and a second end, and wherein the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member.

23. A reciprocating saw comprising:

- a housing;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member engageable with the shoe support member, the locking member having a first end and a second end; and
- a lever operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever engaging the first end and the second end of the locking member.

24. The reciprocating saw as set forth in Claim 23 wherein the locking member is pivotable between the locked position and the unlocked position.

25. (Allowed) A reciprocating saw comprising:

- a housing;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member engageable with the shoe support member, the locking member having a first end and a second end; and
- a lever operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever engaging the first end and the second end of the locking member;

wherein the lever includes a first lever member formed of a moldable material and a second lever member formed of a metallic material, the second lever member being molded with the first lever member, the second lever member defining a recess, one of the first end and the second end of the locking member engaging the recess.

26. (Allowed) The reciprocating saw as set forth in Claim 25 wherein the second lever member defines a first recess and a second recess, the first end and the second end of the locking member respectively engaging the first recess and the second recess.

27. The reciprocating saw as set forth in Claim 23 and further comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel, wherein the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member.

28. (Allowed) A reciprocating saw comprising:

- a housing;
- a motor supported by the housing;
- a spindle movably supported by the housing, the spindle having an end adapted to support a saw blade;
- a drive mechanism connected between the motor and the spindle to reciprocally drive the spindle relative to the housing upon operation of the motor;
- a shoe for engaging a surface of a workpiece;
- a shoe support member supporting the shoe, the shoe support member being movably supported by the housing;
- a locking assembly operable to lock the shoe support member in a position relative to the housing, the locking assembly including a locking member engageable with the shoe support member, the locking member having a first end and a second end; and
- a lever operable to move the locking member between a locked position, in which the locking member engages the shoe support member to lock the shoe support member in a position relative to the housing, and an unlocked condition, in which the shoe support member is movable relative to the housing, the lever including a first lever member formed of a moldable material and a second lever member formed of a metallic material, the second lever member being molded with the first lever member, the second lever member defining a recess, one of the first end and the second end of the locking member engaging the recess.

29. (Allowed) The reciprocating saw as set forth in Claim 28 wherein the second lever member defines a first recess and a second recess, the first end and the second end of the locking member respectively engaging the first recess and the second recess.

30. (Allowed) The reciprocating saw as set forth in Claim 28 and further comprising a retainer member supported by the housing and defining a channel, the shoe support member being movable in the channel, wherein the retainer member defines a first opening and a second opening respectively receiving the first end and the second end of the locking member.